

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

1. The petitioner first applied for RUFA in Rutland Vermont in March 2009. At the time of her application the petitioner reported that she was "homeless", and was living with her husband and their five minor children in a motorized RV. The Department granted the petitioner's application and enrolled the petitioner in Reach Up. The petitioner maintains that her children were enrolled in school in Rutland. The petitioner gave as her mailing address, "general delivery" in Rutland.

2. The petitioner admits that she and her family drove their RV to Washington DC in April 2009. During this time the petitioner failed to attend a Reach Up sanction meeting. Attending such meetings is a condition of continuing receipt of RUFA. Having heard nothing from the petitioner, on May 22, 2009 the Department notified her, by mail at her last known address (*supra*), that her RUFA grant would close effective May 31, 2009.

3. The petitioner represents that after she and her family had stayed in Washington DC for a few weeks, in May they drove their RV to Ohio, where they have been ever since.

4. The petitioner represents that she did not receive any of the Department's written notices, but she concedes that she did not leave a forwarding address. She filed her appeal in this matter on August 3, 2009 after talking by phone to her caseworker.

5. At no time to date has the petitioner provided the Board or the Department with a current mailing address. After the Board's attempt to notify her of her hearing by mail at her Rutland address was unsuccessful, the Board contacted the Rutland district office, which was able to reach the petitioner at a cell phone number in her file. The petitioner told the district office that the Board could

notify her of her hearing by email, and that she would participate in her hearing by cell phone.

6. At her phone hearing the petitioner stated that she and her family were still living in their RV, and had been in Ohio since May 2009. The petitioner stated she had not returned to Vermont since April 2009 because the loss of her RUFA benefits had made it financially impossible to do so. The petitioner stated that her children were now attending school in Ohio.

7. The petitioner alleges that she informed her case worker that was leaving Vermont and told her that she intended to return. She states that she learned of the loss of her RUFA benefits in early June (after she had gone to Ohio) when they were not directly deposited in her bank account. However, there is no indication that she inquired about or appealed this decision until early August.

ORDER

The Department's decision is affirmed.

REASONS

Recipients of RUFA are informed in writing that they have a responsibility to report all changes in their circumstance that might affect eligibility, including "any change in (their) domicile advising of (their) new location and mailing address". W.A.M. § 2214.1 That regulation also provides: "Visits away from his/her domicile of less than 30 days shall not generally warrant a change of address."

W.A.M. § 2214 includes the following:

The district office shall, upon receipt of a report of changed circumstances, consider such changes in relation to all eligibility factors for all programs through which aid or benefits are currently authorized. If a reported change results in an assistance group's becoming ineligible, assistance shall be terminated for the earliest date for which the processing and notice deadline has not passed. The department shall reduce or terminate financial assistance without advance notice for assistance groups sanctioned for noncompliance with service component requirements.

W.A.M. § 2233 includes the following policies regarding "residence":

Residence is retained until abandoned. "Abandonment" of Vermont residence is defined as a move outside Vermont with the intent to domicile outside Vermont. . . . (To be "domiciled" is to be physically present in Vermont and to have an intent to make Vermont one's home, that is, not to be in the State for a temporary purpose. . .)

In this case, the only fact *alleged* by the petitioner that would constitute evidence of her intent to return to Vermont is her own statement to that effect. Weighing against this are the undisputed facts that the petitioner never has had a physical home with a mailing address in Vermont, that in April 2009 she removed her children from school in Vermont and has never physically returned, that she has not received mail in Vermont after April or established a temporary forwarding address, that she did not take the steps necessary to maintain her RUFA grant beyond April, and that she did not appeal the loss of her Vermont benefits (as of May 31) until August. Also weighing against a finding of Vermont domicile is the fact that at least as of the date of the hearing in this matter (September 4, 2009) the petitioner had been in Ohio continuously since May and had enrolled her children in school there.

The petitioner admits that she has not received benefits from Vermont since May 31, 2009, and that she and her family have lived in Ohio, a day's drive from Vermont, since that time. It simply strains credulity that the loss of Vermont benefits is a significant factor that has prevented the family from acting on any "intent" to return to Vermont.

Based on the information available to the Department at the time it made its decision in this matter, and the lack of any credible evidence otherwise since that time, it must be concluded that the petitioner abandoned her residence in Vermont as of April 2009 within the meaning of the above regulations. When and if the petitioner returns to Vermont she is free to reapply for benefits.¹ Inasmuch, however, as the Department's decision in this matter is in accord with its regulations, the Board is bound to affirm. 3 V.S.A § 3091(d), Fair Hearing Rule No. 1000.4D.

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¹Of course, the petitioner is also free to apply for benefits in Ohio, if she has not already done so.